

MINUTES

City Council Regular Meeting
November 2, 2020 - 7:00 PM

CALL TO ORDER

Mayor Rudy called the meeting to order at 7:00 p.m.

PLEDGE

ROLL CALL

Mayor:	Brian Rudy
Mayor Pro-Tem:	Mark Clark
Council:	Laura Speer
	Alicia Johnson
	Fred Neal
	Amanda Castle - ABSENT
	Tammy Mortenson

AUDIENCE PARTICIPATION

Mayor Rudy commended Mr. Becklenberg and staff on the Trick or Treat Around the Park event. He was able to take his two young children trick or treating for the first time safely.

APPROVAL OF AGENDA

Mayor Pro-Tem Clark made the motion, seconded by Council Member Johnson to approve the agenda as presented. The motion passed with all voting in favor thereof.

CONSENT AGENDA

1. Approval of the October 20, 2020 City Council Meeting Minutes
2. Consideration of Ordinance Number 730-20 - 2021 Operating and Capital Budget Appropriations (2nd reading)
3. Consideration of Resolution Number 36-2020 Ratifying the Appointment of Certain Nominees to the Board of Trustees of the High Plains Library District

Mayor Pro-Tern Clark made the motion, seconded by Council Member Speer to approve the consent agenda as presented. The motion passed with all voting in favor thereof.

NEW BUSINESS

4. Consideration of Ordinance Number 739-20 Amending Chapter 1.17 of the Evans Municipal Code to Clarify that the City May Enforce Code Violations Through the Administrative Process Except for Violations Arising Under Titles 9 and 10 (1st Reading)

Mr. Becklenberg stated that at the October 20, 2020 work session meeting City Council was advised about new State requirements that could affect the City of Evans concerning a city-appointed defense attorney for offenses that could result in incarceration. Assistant City Attorney, Drew Lyman, had provided some opportunities to greatly reduce the cost exposure based on this State mandate. The first three agenda items are the result of City Councils' direction to expand the administrative enforcement process and reduce the judicial enforcement process. Each of the proposed amendments are listed as their own agenda item for consideration of each amendment independently. Mr. Becklenberg then turned the meeting over to Drew Lyman, Assistant City Attorney.

Drew Lyman reviewed the proposed ordinance amendments to Chapter 1.17 of the Evans Municipal Code as detailed in the agenda packet. Kyle Fehr was instrumental in drafting the proposed amendment to ensure that the rules are clear where judicial offenses are maintained accordingly and administrative enforcement is used when applicable.

Mayor Pro Tem Clark made the motion, seconded by Council Member Johnson to adopt Ordinance 739-20 to amend Chapter 1.17 of the Evans Municipal Code to expand administrative code enforcement subject to the exceptions provided in the ordinance. The motion passed with all voting in favor thereof.

5. Consideration of Ordinance Number 732-20 Amending Chapter 10.04 of the Evans Municipal Code to Define Certain Traffic Offenses as Traffic Infractions and to Remove the Penalty of Imprisonment for Guilt or Liability Based Solely Upon the Violation of Traffic Infractions (1st Reading)

Mr. Becklenberg turned the meeting over to Drew Lyman, Assistant City Attorney.

Drew Lyman reviewed the proposed draft ordinance as detailed in the agenda packet. This amendment was presented at the October 20, 2020 work session and relates to the previous agenda item to remove the penalty of incarceration for traffic and parking offenses.

Council Member Neal confirmed with staff that heavier offenses are automatically sent to Weld County.

Council Member Mortenson made the motion, seconded by Council Member Johnson to adopt Ordinance 732-20 to amend Chapter 10.04 of the Evans Municipal Code to define certain traffic offenses as traffic infractions and remove the penalty of imprisonment for such offenses. The motion passed with all voting in favor thereof.

6. Consideration of Ordinance Number 737-20 An Ordinance Amending Title 1, Chapter 1.16, Section 1.16.010 of the Evans Municipal Code to Remove the Penalty of Incarceration for Convictions Resulting Solely from Traffic Infractions and Animal at Large Violations (1st Reading)

Mr. Becklenberg turned the meeting over to Drew Lyman, Assistant City Attorney.

Drew Lyman reviewed the proposed draft ordinance as detailed in the agenda packet. This amendment was also presented at the October 20, 2020 work session and relates to the previous agenda items to remove the penalty of incarceration for traffic as well as animal at large offenses, which are animals that are not under the control of their owner or caretaker.

Mayor Pro Tem Clark made the motion, seconded by Council Member Mortenson to adopt Ordinance 737-20 to amend Section 1.16.010 to remove the possibility of imprisonment for Title 10 traffic infractions and animal at large violations. The motion passed with all voting in favor thereof.

7. Public Hearing: Consideration of Ordinance Number 719-20 an Amendment to the Land Use Code, Section 18.06.070 to include Standards for Small Cell Wireless Facilities and clarify Sections of the Telecommunications guidelines (1st Reading)

Mayor Rudy opened the public hearing at 7:12PM.

Mr. Becklenberg reviewed the proposed amendment as detailed in the agenda packet. The Council held a work session previously to discuss potential policy considerations for small cell wireless facilities, which are telecommunications infrastructure. All communities are dealing with this issue and adopting regulations. Council gave direction to staff to present an ordinance that would give the City as much flexibility to direct and consolidate these types of infrastructure as possible given that most of the regulations are governed by federal law. Staff planned to present this ordinance to Council this evening and noticed the public hearing accordingly. Since that time, the City has heard from two major telecommunications companies serving the City of Evans that they would like more time to review and comment on the proposed regulations. Therefore, staff is asking that Council continue the public hearing to December 15, 2020.

Mayor Rudy asked if there was anyone in the audience wishing to speak in favor of the proposed ordinance. There were none.

Mayor Rudy asked if there was anyone in the audience wishing to speak in opposition of the proposed ordinance. There were none.

Council Member Johnson made the motion, seconded by Council Member Neal to continue the Public Hearing for Ordinance 719-20 to December 15, 2020. The motion passed with all voting in favor thereof.

8. Consideration of Reimbursable Financial Support for Homelessness Services Due to the COVID-19 Pandemic

Mr. Becklenberg reviewed the proposed allocation as detailed in the agenda packet. The CARES Act is federal money intended, and required, by the federal government to be used to reimburse costs associated with COVID-19 response along with support for business recovery and other public health-related issues. The total allocation to the City of Evans, along with current expenditures and authorized projected costs through the end of the year, were reviewed. Council has approved several uses of the funds to date. With no further planning, the City would use \$328,123 of its available \$974,312. The remainder would have to go back to the federal government. In his talks with the county, no one wants to see that happen so they are looking to keep this money in Weld County. The cold weather shelter support need is not a traditional use of our City funds. However, the City has been working with the City of Greeley, Weld County and Catholic Charities through the United Way. The cost to assist the homeless has been growing. The capacity of our shelter, which is housed at the Tri-Point building, has gone from approximately 90 to 40 due to COVID-19, in addition to other limitations. Several non-profits have arranged for approximately 40 rooms at the Bonnell house on 42nd Street for non-congregate care for the elderly and the ill experiencing homelessness. Weld County Public Health Department is also involved as well. Evans and Greeley have been discussing how to best use some of the CARES Act money to assist with these needs. Currently, Greeley has about \$270,000 of CARES Act money that they plan to use. Greeley was going to cover approximately \$145,000 of CBDG money from when the Tri-Point facility had to move its cold weather shelter last year. Greeley has asked for Evans to cover the \$145,000 so they can use the CBDG money after December 30th to cover services in both communities. The City has also been asked to cover the Tri-Point costs for November and December, which is approximately \$125,000, for a total of \$265,000. It is all reimbursable through the CARES Act, so the net cost to the City would be \$0. Any funds not used by December 30th would be refunded back to Evans and Greeley. Staff is seeking Council's approval.

Mayor Pro Tem Clark stated that he is not unsympathetic to anyone experiencing homelessness. He confirmed with staff that Evans is at a reduced capacity in the cold weather shelter, the costs have gone up, homeless are utilizing another facility that is within Greeley and Greeley is wanting Evans to foot the bill. He believes that homelessness in general is a problem and is shared by both communities. Evans would be footing the bill for housing people in Greeley, as well as Evans. To him, that does not seem right. Evans should utilize its money for Evans and Greeley for Greeley. Mr. Becklenberg responded that of the \$270,000 of CARES Act money, plus the CBDG money, Greeley is focusing their efforts on the Bonnell house space for the oldest and most ill homeless which would have been coming to the Evans facility. The discussions between Evans and Greeley have been very productive at how to look at this problem. The homeless residents are from both Evans and Greeley. Greeley is going to cover the end of the season with \$145,000 for both communities. Evans will still have several hundred thousand dollars of unspent CARES Act money at the end of the year. Mayor Pro Tem Clark believes that it a lot of money. He would have increased the business support to \$150,000. Mr. Becklenberg added that Evans will still have approximately \$350,000 for business support.

Council Member Speer agrees with Mayor Pro Tem Clark accept that she also has a problem with spending only \$75,000 on businesses and people who are out of work and \$265,000 on 40 - 90 homeless people. She cannot support this.

Council Member Johnson agrees with the comments stated by Council and feels that the City should focus more on businesses within the City. The City has a lot of businesses that are suffering. She does not know the number of businesses that have been reached out to or that have applied. She does like that Evans is collaborating with Greeley and assisting the homeless population. She had volunteered at the shelter and sees the need to house them during the winter, especially during the pandemic. She likes the creative ideas to provide shelter for them. It would be approximately half the amount that the City has left over in CARES Act money, so there is still more money that can be utilized for Evans' businesses. She thanked staff for providing the funding but also believes that businesses still have a need as well. She suggested a bigger social media presence to reach out to our businesses that have not yet reached out to the City for help. She is in favor of assisting the homeless population.

Council Member Neal added that he is aware of an Evans business that has been turned down twice for PPE loans. He would like to see more money allocated to the business support fund. He is afraid that the pandemic situation is getting worse and our restaurants, retail stores and services may be forced to close. Mr. Becklenberg stated that a recommendation regarding increased business support will be presented to Council at the next meeting.

Mayor Rudy agrees with the comments made by Council in different ways. He agrees that \$75,000 to the business support fund may not have been enough. He will wait for the recommendation at the next meeting. Even if the City added another \$75,000 to the business support fund, there will still be another \$306,000 even with the proposed allocation to the cold weather shelter support fund. He believes that is plenty of money. Evans should be able to help all of its businesses. He is in favor of the request seeing that there will still be money left over.

Council Member Johnson made the motion, seconded by Council Member Mortenson for approval of a \$265,000 contribution to the United Way of Weld County for Cold Weather Shelter purposes and further move for authorization of preliminary budget amendment to the General Fund in the same amount to pay for the contribution.

Mayor Rudy asked if the General Fund is sufficient to make the contribution. Mr. Becklenberg responded yes and that the City will get the money back through the CARES Act.

Mayor Pro Tem Clark confirmed with staff that Council will talk about more assistance for businesses at a future meeting. Mr. Becklenberg added that Evans had approximately \$80,000 worth in applications in the first round of assistance. Municipalities and the County are looking at how much need is anticipated for the second round. Mayor Pro Tem Clark confirmed that both Evans and Greeley are contributing to the Cold Weather Shelter fund and Evans is not footing the entire bill.

Council Member Johnson asked if the Island Grove building is being utilized currently. Mr. Becklenberg responded no, that was a temporary space last spring.

The motion passed 5 - 1 with Council Member Speer voting against.

9. Consideration of East Side Storm Sewer (ESSS) BT Construction Phase 2 Contract

Mr. Becklenberg reviewed the East Side Storm Sewer contract as detailed in the agenda packet and turned the meeting over to Mark Oberschmidt, City Engineer, to review the project.

Mark Oberschmidt explained that two engineering projects have been deferred for further analysis and the City is moving ahead with two projects. The two projects deferred were the 39th Street storm sewer and the St Vrain Street projects. The City has evaluated the remaining two proposed storm sewer projects and BT Construction has provided a cost estimate for work. The 37th Street storm sewer has been cleaned out and is functioning fairly well at this time. Staff believes that it will be better to intercept water on the west side of Highway 85 before it gets to the east side and direct it south. By deferring the 37th Street project at this time, the cost savings can be directed to finishing the designs of the 31st Street and 35th Street projects for construction in 2022. With regards to the flooding concerns along West Service Road, Staff can clean out the storm sewers, deepen the detention pond and use a restrictor to slow down the water and reduce the flooding on the east side of the highway.

Mayor Pro Tem Clark believes that this is a good idea. He knows several business owners in that area and when there is a heavy rain event, they would have to use sandbags. Sometimes the water came very quickly and the sandbags did not help. This has been a long time coming and those business owners will be grateful. He is in favor of the contract.

Council Member Speer thanked staff for following up and believes a deeper detention pond will help. She is glad that the City is able to use the money from the deferred projects to complete these projects more cost effectively. She believes that due to the cleaning of the existing storm sewers, other areas may see less water collection as well. She thanked staff for their work on this project.

Council Member Neal thanked staff and believes this work is long overdue. The City's maintenance on the sewer lines is overdue and the one line was vastly undersized. He is glad that the issues are being addressed.

Council Member Johnson also thanked staff for their work on this project. It has been needed for a long time and she likes that staff is thinking outside the box on solutions.

Mayor Rudy is in favor as well. The project makes sense and staff has done a great job.

Council Member Speer made the motion, seconded by Council Member Neal to award the contract for final design services related to the East Side Storm Sewer projects to BT Construction in the not to exceed amount of \$116,897.35 and to authorize the Mayor's signature on the contract. The motion passed with all voting in favor thereof.

10. Consideration of Resolution Number 37-2020 in support of the Northern Colorado Water Conservation District Water Wise Grant to fund water-conserving landscaping improvements at the Evans Community Complex

Mr. Becklenberg turned the meeting over to Randy Ready, Assistant City Manager, to review the Water Wise Grant available to the City as detailed in the agenda packet. Mr. Scott Sandridge, Operations and Parks Manager, is also present to answer any questions.

Randy Ready explained that previously there was a highly successful project this year. \$20,000 was used at the corner of Highway 34 and 11th Avenue to beautify the corner outside of the cemetery. That project was completed through funding provided by the Northern Colorado Water Conservation District Water Wise Grant. The Water Conservation District considered the project such a success that they have approached the City concerning a 2021 project. This would be a second grant, to be completed in three phases, that would beautify the Community Complex grounds and make them a model efficiency garden as well. The first phase would include the triangular island outside the main entrance doors, the area near the flagpole and the area in front of the Police Department entrance. The maximum grant amount would \$20,000 and would need to be matched, which is included in the Parks maintenance funding in the 2021 budget. The proposed Resolution would be in support of the grant amount of \$20,000 from the Water Conservation District. Phase 2 would be the remainder of the front of the building down to the recreation entrance and Phase 3 could be the 37th Street side. The aim is to beautify and improve the irrigation efficiency and plant model gardens. The Northern Colorado Water Conservation District is willing to fund the design as well, in partnership with the botanical gardens in the next couple months to begin the project in 2021. Approval of the Resolution would allow staff to submit the grant application this month.

Mayor Pro Tem Clark believes this is a great partnership and collaboration and is in favor of it.

Council Member Johnson echoes Mayor Pro Tem Clark's remarks and likes that Northern Colorado Water Conservation District has approached the City. She is happy that the City is able to create relationships that assist the City with beautifying our building. She thanked staff for their efforts.

Council Member Speer stated that the botanical garden and the Water Conservation District is usually focused on plants that do not need a lot of water and asked if there is any room in the design for art. Other communities such as Greeley and Loveland have art incorporated into their designs. She asked if there is room for non-rock and non-botanical beautification. Randy Ready responded that it a good question and believes that is something the City can work with them on, whether it can be their grant funds or part of the City's match. Scott Sandridge added that the grant funds are really specific as to be used for landscape, material and irrigation. However, the City can work it into the plan, possibly where the tree wells are in front of the building with the electricity. Council Member Speer mentioned artistic fake trees are a possibility. Mr. Becklenberg added that there may be other grants available that can help with that. Council Member Speer added that artists may want to contribute as well.

Council Member Johnson believes that it is a great idea. Incorporating art will let people know that the City has a creative side and that would be an asset for the City.

Council Member Neal agrees with Scott Sandridge that the Water District does not have the funding for artwork. The PTSD monument that Garden City installed needed donations from

private citizens before the Council would authorize funding. Art may be a little pricy for this project if the total project is only \$40,000. However, it is a good idea to get something like that going in Evans, but again it is a pricey concept. He is pleased with the work done at Highway 34 and 11th Avenue and he is in favor of the grant application. He would like to see the parking lot at City Hall repaved too. Council Member Speer advised Council Member Neal that staff will be asking for the Water Conservation District to assist with designing it and not funding the artwork.

Mayor Pro Tem Clark made the motion, seconded by Council Member Johnson to adopt Resolution Number 37-2020 and authorize the City Manager to sign the Northern Colorado Water Conservation District grant application form. The motion passed with all voting in favor thereof.

11. Consideration of Change Order: 2020 Wastewater Treatment Plant Lagoon Dewatering

Mr. Becklenberg turning the meeting over to Randy Ready, Assistant City Manager, and advised that Robby Porsch, Wastewater Superintendent, is also available to answer any questions.

Randy Ready provided an overview as detailed in the agenda packet. This item is a change order to a major scope of work that was completed over the summer to dewater the west wasting lagoon at the wastewater treatment plant. That was to repair the damaged lagoon liner. That work was completed which removed approximately 170 tons of solids and took a majority of the funds within the contract for this year. The work for the east wasting lagoon is still needed, which is about 160 tons of solids to be removed. There is a \$30,000 shortfall to complete that work. The change order would add the needed amount to the existing contract. The new contract amount would be \$280,000. The funding is there from other contracted work that is coming in under the contracted amount which would not require a budget amendment. Staff's recommendation is to proceed and remove all the solids.

Council Member Neal witnessed the liner replacement in the west lagoon and he believes it makes sense to complete the east lagoon. He does not have an issue with the change order.

Council Member Mortenson made the motion, seconded by Council Member Johnson to approve the 2020 Wastewater Treatment Plant Lagoon Dewatering Project Change Order 1 in the amount of \$30,000 to the Veris Environmental, LLC contract for a new contract amount not to exceed \$280,000 and authorize the Mayor's signature on the change order. The motion passed with all voting in favor thereof.

REPORTS

12. City Manager

Mr. Becklenberg provided an update on the Police Department's annual prescription drug take back and paper shredding event. The City took in 520 pounds of unused, unwanted or expired prescription drugs and 2 tons of paper documents for shredding.

Mr. Becklenberg also advised that instead of the annual potluck for seniors, the City is planning a "Thankful for our Veterans" meal on November 11, 2020.

13. City Attorney

City Attorney, Scott Krob, advised City Council of the COVID-19 memorandum that was sent out and is willing to address any questions Council has on that topic.

AUDIENCE PARTICIPATION

There was no audience participation.

EXECUTIVE SESSION

14. To confer with the City Attorney regarding specific legal questions related to the Eastwood Village Litigation and RV Park pursuant to Section 24-6-402(4)(b) of the Colorado Revised Statutes

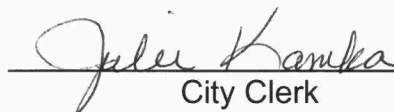
Mayor Pro-Tem Clark made the motion, seconded by Council Member Johnson to adjourn into executive session at 8:10 p.m. to confer with the City Attorney regarding specific legal questions related to the Eastwood Village Litigation and RV Park pursuant to C.R.S. Section 24-6-402(4)(b). The motion passed with all voting in favor thereof.

The meeting reconvened at 8:27 p.m.

Mr. Krob noted for the record that the executive session that Council concluded was within the scope of the statute and that he was present for the duration of the discussion, so the discussion is subject to the attorney client privilege.

AJOURNMENT

The meeting was adjourned at 8:27 p.m.


City Clerk



CITY OF EVANS – MISSION STATEMENT

"To deliver sustainable, citizen-driven services for the health, safety, and welfare of the community."

It is the policy of the City of Evans that all programs and activities shall be accessible to, and usable by, persons with disabilities. Persons needing assistance shall contact the Safety & Risk Management Manager at the City of Evans. Please provide three to five business day's advance notice so we can adequately meet your needs.